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ESA P PORTFOLIO, LLC and ESA

MANAGEMENT, LLC

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MICHAEL PATTON,

Plaintiff,

vs.

EXTENDED STAY AMERICA, INC., ESA P
PORTFOLIO, L.L.C., ESA P PORTFOLIO
OPERATING LESSEE, INC., ESA
MANAGEMENT, LLC and DOES 1 – 50,

Defendants.

Case No. 1:20-cv-01498-ADA-SKO

**STIPULATION AND ORDER TO
CONTINUE TRIAL, PRETRIAL, and
SETTLEMENT CONFERENCE DATES**

(Doc. 86)

Trial Date: March 14, 2023

Comes now Plaintiff Michael Patton and Defendants ESA Portfolio, LLC and ESA Management, LLC by and through their respective counsel of record and stipulate to an order continuing the trial date and the pretrial conference based upon the following good cause.

WHEREAS the court has scheduled the following dates:

1. Final Pretrial Conference: January 23, 2023 at 02:30 p.m.;

- 1 2. Status Conference: February 8, 2023 at 4:00 p.m.;
- 2 3. Settlement Conference: February 16, 2023 at 10:30 a.m.; and
- 3 4. Jury Trial: March 14, 2023 at 8:30 a.m.

4 On September 23, 2021 Charles S. Painter of the law firm of Ericksen Arbuthnot was retained
5 as lead trial counsel to represent the defendants in this action. Charles S. Painter had been an equity
6 partner in that law firm for 38 years. Ericksen Arbuthnot has been in business for almost 80 years.
7 Ericksen Arbuthnot is now in the process of dissolving and appointing a trustee to manage the
8 dissolution of Ericksen Arbuthnot. Ericksen Arbuthnot has ceased doing business on December 31,
9 2022. In the summer of last year, Charles S. Painter determined that it was in the best interest of his
10 clients and himself that he resign from Ericksen Arbuthnot. Charles S. Painter resigned from Ericksen
11 Arbuthnot in August of this year and in September of this year Charles S. Painter accepted a position
12 as a partner with the law firm of Lewis Brisbois Bisgaard Smith LLP. Mr. Painter transitioned his
13 entire team and approximately 100 active litigation files to Lewis Brisbois. This transition process
14 has been complicated by the fact that Ericksen Arbuthnot is in the process of dissolving and has
15 ceased operation. The transition has been extremely time consuming, challenging and complicated.

16 WHEREAS attorney Charles S. Painter has been the lead counsel handling all of the
17 discovery, almost all of the depositions and managing all of this litigation since September 23, 2021.

18 WHEREAS after the transfer to Lewis Brisbois, Charles Painter and his staff just recently
19 discovered issues with respect to the electronic transfer from Ericksen Arbuthnot to Lewis Brisbois
20 of pivotal portions of this file which makes preparing a Joint Pre-Trial Statement extremely difficult,
21 in part because the Ericksen Arbuthnot firm ceased operation as of December 31, 2022.

22 WHEREAS Rebecca Menendez, one of defendant's counsel, tested for positive for COVID
23 in September during the transition to Lewis Brisbois, and again, tested positive on November 22,
24 2022 and thereafter developed complications and was on sick leave and/or worked a modified
25 schedule until the new year.

26 WHEREAS lead counsel, Charles Painter, was engaged in preparation for a multi-million
27 dollar trial. The trial was from November 30 through December 7, 2022 in Los Angeles County
28 Superior Court.

1 WHEREAS Charles S. Painter has had numerous other matters set for trial in December
2 January and February that have required the attention of himself and his staff. The press of this other
3 business hindered their discovery of the problems associated with the electronic transfer of this file
4 from Ericksen Arbuthnot to Lewis Brisbois.

5 Based on the foregoing, the parties do agree and stipulate between and amongst themselves,
6 through their respective counsel, to continue the trial to August 22, 2023 and the pre-trial conference
7 to June 26, 2023.

8
9 DATED: January 13, 2023

LEWIS BRISBOIS BISGAARD & SMITH LLP

10
11 By: /s/

12 CHARLES S. PAINTER
13 Attorneys for Defendants
14 ESA P PORTFOLIO, LLC and ESA
15 MANAGEMENT, LLC

16 DATED: January 13, 2023

VICKERY & SHEPHERD, LLP

17
18 By: /s/ Fred Shepherd

19 FRED SHEPHERD
20 Attorney for Plaintiff
21 MICHAEL PATTON
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ORDER

Based on the parties' foregoing stipulation (Doc. 86) and for good cause shown (Fed. R. Civ. P. 16(b)(4)), IT IS HEREBY ORDERED that:

1. The Final Pretrial Conference is CONTINUED from January 23, 2023 to **June 26, 2023 at 02:30 PM** in Courtroom 1 (ADA) before District Judge Ana de Alba.

2. Trial is CONTINUED from March 14, 2023 to **August 22, 2023 at 08:30 AM** in Courtroom 1 (ADA) before District Judge Ana de Alba; and

3. The Settlement Conference is CONTINUED from February 16, 2023 to **June 8, 2023 at 10:00 AM** in Courtroom 7 (SKO) before Magistrate Judge Sheila K. Oberto. The Pre-Settlement Conference set for February 8, 2023, is VACATED, and an amended written order re: settlement procedures will follow.

IT IS SO ORDERED.

Dated: **January 17, 2023**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE